



MINUTES OF THE GILA COUNTY

BOARD OF ADJUSTMENT

Thursday, February 15, 2018

GILA COUNTY BOARD OF SUPERVISORS CONFERENCE ROOM

610 E. Highway 260, Payson, AZ

9:00 A.M.

REGULAR MEETING

1. The meeting was called to order at 9:02 A.M. by Chairman Don Ascoli.
2. Pledge of Allegiance was led by Chairman Don Ascoli.
3. Roll Call: Therese Berumen did the roll call; Chairman Don Ascoli (in Payson), Terry Otts (in Globe), Bill Marshall (in Globe), Mickie Nye (in Globe), and Mary Lou Myers (in Payson) are all present. No members were absent. A quorum is present.

Community Development Staff Members Present: Scott Buzan-Director, Robert Gould-Planner, Therese Berumen-Administrative Assistant, Debby Bradway-Senior Building Safety Assistant and Debbie Fickel-Building & Zoning Inspector.

Gila County Attorney's Office Present: Charles Shire.

4. Review and Approval of the Board of Adjustment Minutes on January 18, 2018. Chairman Don Ascoli asked if there were any changes needed to the minutes. No changes were suggested. Mary Lou Myers motioned that the minutes be approved as is and Mickie Nye seconded the motion. The motion was unanimously approved.
5. **Director/Planner Communication:** At any time during this meeting of the Board of Adjustment, Director Scott Buzan and/or Planner Robert Gould of Community Development may present a brief summary of current events. No action may be taken.

Neither Scott Buzan nor Robert Gould had any items they wanted to discuss.

Appeal:

6. **AV-17-13 Walter Rudnick:** An application was approved by the Community Development Division and appealed by Alejandro and Linda Martinez, due to safety reasons.

Robert Gould presented the staff report overview. Mr. Rudnick constructed a 12-foot by 12-foot carport without attaining any permits and built it about 25 inches from his property line. After it was red-tagged, Mr. Rudnick came into the Payson office and filled out an Administrative Variance application, requesting a 3.5-foot property line setback for the carport. I did approve the application because I didn't see any real big issues with it. The neighbor who shares that property line has some safety concerns with it. We received Mr. and Mrs. Martinez's appeal letter a day or two after the appeal period ended. Since the letter was received after the appeal period ended, the Board has an option to just deny the appeal on that basis alone. It was

accepted in our office using the postmarked date of the letter. Mr. Rudnick fully intends on moving his carport back to meet the 3.5-foot property line setback. Scott Buzan reinstated that the Community Development Division used the postmarked date of the letter and it was within the timeframe of the appeal period. Chairman Don Ascoli asked what the measurement was right now from the property line to the structure. Robert Gould stated that it was measured at 25-25.5 inches right now. He also stated that a portion of the stone wall is on both properties, with the larger portion being on the Martinez's property. Debby Bradway clarified that the building department requires permits on anything over 200 square feet. Anything under 200 square feet doesn't require a building permit, but does require what we call a \$25 counter fee for a site plan review. This was added into our ordinance a few years back. It is the staff's job to verify all setbacks, including wastewater. Once Mr. and Mrs. Rudnick realized they needed a permit, they came into the office. Once the variance application is complete, they will come back into the office and pay the \$25 counter fee for their site plan review. Mrs. Rudnick wanted clarification on where the setback is measured from. From eave to eave or from the pole of the carport because she has been told two different things. Scott Buzan stated it would not be the eave, that it would be from the wall or pole of the carport. Debby Bradway clarified that the eave of the carport has to be at least 2 feet from the property line. Chairman Don Ascoli stated that though it may be just a technical issue, the issue of the postmarked date needed to be addressed. Scott Buzan stated that it was agreed to use the postmarked date. Charles Shire stated, from a legal view, it should always be specified how it should be delivered. Chairman Don Ascoli, along with the other Board members agreed that it would be allowed because it was postmarked before the appeal period ended. Robert Gould clarified that the Board is only to approve or deny the appeal that Mr. and Mrs. Martinez submitted and not whether Mr. Rudnick can have a 3.5-foot property line setback because the 3.5-foot property line setback has already been approved.

The meeting was opened to public comment. Mrs. Rudnick wanted to clarify that because they had an old version of the building handbook, that because it was an exempt structure, that they didn't think they needed to get it permitted. Later they did find out that they needed to come into the office and they took care of what they needed to. They also understand Mr. and Mrs. Martinez's concerns about the wall because it wasn't properly constructed, but we don't believe that is our problem as far as the variance goes. We don't believe that should be the reason why we don't get the variance. Mrs. Martinez stated that her and her husband never had any issue with the structure itself, but were told by their lawyer that having a paper trail would be beneficial to them. Their concern is if part of the wall would happen to fall again, they didn't want to be liable if it damaged their property. Chairman Don Ascoli stated that from the pictures that were included in the agenda packet that the majority of the wall lies on the Martinez's property. Mr. Rudnick stated that he didn't construct the wall and shouldn't be liable for it. Chairman Don Ascoli stated that there has been a lot of conversation over the wall, but wanted to convey that the Board is only making a decision either to approve or deny the appeal of the 3.5-foot property line setback. No other public comments. The public comment portion of the meeting was closed. Mary Lou Myers stated that she believes that Mr. and Mrs. Rudnick have performed to the statutes and to the county's regulations.

Mickie Nye motioned to deny the appeal. The motion was seconded by Mary Lou Myers. The motion was unanimously approved.

7. Adjournment. Bill Marshall made a motion to adjourn the meeting and Terry Otts seconded the motion. The motion to adjourn was unanimously approved at 9:43 A.M.